

CHAPTER 359

TAXATION

HOUSE BILL 22-1055

BY REPRESENTATIVE(S) Lontine and Herod, Bacon, Bernett, Cutter, Duran, Esgar, Froelich, Hooton, Jodeh, Kipp, McLachlan, Michaelson Jenet, Sirota, Titone, Young, Amabile, Bird, Boesenecker, Caraveo, Daugherty, Exum, Gonzales-Gutierrez, Gray, Kennedy, Lindsay, McCormick, Mullica, Ricks, Roberts, Sullivan, Tipper, Valdez A., Valdez D., Weissman, Woodrow, Garnett; also SENATOR(S) Jaquez Lewis and Winter, Buckner, Gonzales, Story, Bridges, Coleman, Danielson, Donovan, Fields, Hansen, Hinrichsen, Kolker, Lee, Moreno, Pettersen, Priola, Rodriguez, Fenberg.

AN ACT**CONCERNING A SALES AND USE TAX EXEMPTION FOR ESSENTIAL HYGIENE PRODUCTS.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 39-26-717, **amend** (2)(k) and (2)(l); and **add** (1)(a.5), (1)(b.5), (2)(m), and (2)(n) as follows:

39-26-717. Drugs and medical and therapeutic devices - legislative declaration - definitions - repeal. (1) As used in this section, unless the context otherwise requires:

(a.5) "INCONTINENCE PRODUCTS AND DIAPERS" MEANS ABSORBENT CLOTH OR DISPOSABLE PRODUCTS WORN BY HUMANS WHO ARE INCAPABLE OF, OR HAVE DIFFICULTY, CONTROLLING THEIR BLADDER OR BOWEL MOVEMENTS.

(b.5) "PERIOD PRODUCTS" MEANS CONSUMER PRODUCTS USED TO MANAGE MENSTRUATION.

(2) The following are exempt from taxation under part 1 of this article 26:

(k) All sales of nonprescription drugs or materials when furnished by a practitioner as part of professional services provided to a patient; ~~and~~

(l) All sales of corrective eyeglasses, contact lenses, or hearing aids; AND

(m) (I) ALL SALES OF PERIOD PRODUCTS PURCHASED ON AND AFTER JANUARY 1,

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

2023.

(II) IN ACCORDANCE WITH SECTION 39-21-304 (1), WHICH REQUIRES EACH BILL THAT CREATES A NEW TAX EXPENDITURE TO INCLUDE A TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A STATUTORY LEGISLATIVE DECLARATION, THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(A) THE GENERAL LEGISLATIVE PURPOSE OF THE EXEMPTION ALLOWED BY THIS SUBSECTION (2)(m) IS TO PROVIDE TAX RELIEF FOR CERTAIN INDIVIDUALS;

(B) THE SPECIFIC LEGISLATIVE PURPOSE OF THE EXEMPTION ALLOWED BY THIS SUBSECTION (2)(m) IS TO INCREASE THE AFFORDABILITY OF PERIOD PRODUCTS AND TO REDRESS THE INEQUITABLE BURDEN THAT THE IMPOSITION OF SALES TAX PLACES ON MILLIONS OF WOMEN IN COLORADO FOR WHOM SUCH PRODUCTS ARE ESSENTIAL; AND

(C) IN ORDER TO ALLOW THE GENERAL ASSEMBLY AND THE STATE AUDITOR TO MEASURE THE EFFECTIVENESS OF THE EXEMPTION, THE STATE AUDITOR SHALL IDENTIFY AVAILABLE DATA SOURCES AND ESTIMATE THE SAVINGS THAT THE EXEMPTION PROVIDES TO TAXPAYERS IN COLORADO FOR WHOM PERIOD PRODUCTS ARE ESSENTIAL DURING THE STATE AUDITOR'S EVALUATION OF THE EXEMPTION PURSUANT TO SECTION 39-21-305.

(III) NOTWITHSTANDING SECTION 39-21-304 (4), THE EXEMPTION IN THIS SUBSECTION (2)(m) CONTINUES INDEFINITELY.

(n)(I) ALL SALES OF INCONTINENCE PRODUCTS AND DIAPERS PURCHASED ON AND AFTER JANUARY 1, 2023.

(II) IN ACCORDANCE WITH SECTION 39-21-304 (1), WHICH REQUIRES EACH BILL THAT CREATES A NEW TAX EXPENDITURE TO INCLUDE A TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A STATUTORY LEGISLATIVE DECLARATION, THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(A) THE GENERAL LEGISLATIVE PURPOSE OF THE EXEMPTION ALLOWED BY THIS SUBSECTION (2)(n) IS TO PROVIDE TAX RELIEF FOR CERTAIN INDIVIDUALS;

(B) THE SPECIFIC LEGISLATIVE PURPOSE OF THE EXEMPTION ALLOWED BY THIS SUBSECTION (2)(n) IS TO INCREASE THE AFFORDABILITY OF INCONTINENCE PRODUCTS AND DIAPERS AND TO REDRESS THE INEQUITABLE BURDEN THAT THE IMPOSITION OF SALES TAX PLACES ON MILLIONS OF PARENTS, INDIVIDUALS CARING FOR INFANTS AND YOUNG CHILDREN, AND OTHER USERS OF INCONTINENCE PRODUCTS IN COLORADO FOR WHOM SUCH PRODUCTS ARE ESSENTIAL; AND

(C) IN ORDER TO ALLOW THE GENERAL ASSEMBLY AND THE STATE AUDITOR TO MEASURE THE EFFECTIVENESS OF THE CREDIT, THE STATE AUDITOR SHALL IDENTIFY AVAILABLE DATA SOURCES AND ESTIMATE THE SAVINGS THE EXEMPTION PROVIDES TO TAXPAYERS IN COLORADO FOR WHOM INCONTINENCE PRODUCTS AND DIAPERS ARE ESSENTIAL DURING THE STATE AUDITOR'S EVALUATION OF THE EXEMPTION PURSUANT TO SECTION 39-21-305.

(III) NOTWITHSTANDING SECTION 39-21-304 (4), THE EXEMPTION IN THIS SUBSECTION (2)(n) CONTINUES INDEFINITELY.

SECTION 2. In Colorado Revised Statutes, 29-2-105, **add** (1)(d)(I)(Q) and (1)(d)(I)(R) as follows:

29-2-105. Contents of sales tax ordinances and proposals. (1) The sales tax ordinance or proposal of any incorporated town, city, or county adopted pursuant to this article 2 shall be imposed on the sale of tangible personal property at retail or the furnishing of services, as provided in subsection (1)(d) of this section. Any countywide or incorporated town or city sales tax ordinance or proposal shall include the following provisions:

(d)(I) A provision that the sale of tangible personal property and services taxable pursuant to this article 2 shall be the same as the sale of tangible personal property and services taxable pursuant to section 39-26-104, except as otherwise provided in this subsection (1)(d). The sale of tangible personal property and services taxable pursuant to this article 2 shall be subject to the same sales tax exemptions as those specified in part 7 of article 26 of title 39; except that the sale of the following may be exempted from a town, city, or county sales tax only by the express inclusion of the exemption either at the time of adoption of the initial sales tax ordinance or resolution or by amendment thereto:

(Q) THE EXEMPTION FOR SALES OF PERIOD PRODUCTS AS SPECIFIED IN SECTION 39-26-717 (2)(m).

(R) THE EXEMPTION FOR SALES OF INCONTINENCE PRODUCTS AND DIAPERS AS SPECIFIED IN SECTION 39-26-717 (2)(n).

SECTION 3. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 3, 2022